

Claims 1-32, drawn to a composition and method for inducing bone formation (Group I) and claims 33-37, drawn to a method of making an implantable graft (Group II), are said to be separate and distinct inventions because it is alleged that "the product as claimed can be used to make a materially different product such as different bone grafting materials that are in the osteoinductive category of grafts such as Bioglass, Norian Collagraft, Corraline Hydroxyapatite, powdered hydroxyapatite, crystalline and amorphous hydroxyapatite (hydroxyl apatite)."

In response, it is respectfully urged that clarification as to the alleged distinctness of these groups of claims is needed. It is unclear as to what is intended by the statement that "the product as claimed can be used to make a materially different product such as different bone grafting materials that are in the osteoinductive category of grafts such as Bioglass, Norian Collagraft, Corraline Hydroxyapatite, powdered hydroxyapatite, crystalline and amorphous hydroxyapatite (hydroxyl apatite)." Does this mean that the composition of group I may be used to make the recited products, and that these are somehow distinct? Is the inverse intended? Is it intended that the composition of the Group I set of claims may be used to produce the recited list of compositions but that the composition of the Group II set of claims could not be made from the same materials? Essentially, the grounds for Restriction are sufficiently unclear that appropriate grounds for traverse and election cannot be advanced without clarification.

The above noted concerns notwithstanding, in order to advance prosecution of this application, claims 1-32 (Group I), are hereby provisionally elected with traverse. The proviso of this election is that clarification on the grounds for restriction is awaited, and that upon advancement of a response thereto, the grounds for restriction will be reconsidered and withdrawn if the response is found persuasive.

It is noted that numbered paragraph 18 of the Office Action is an incomplete sentence. Accordingly, no response to that paragraph is possible. Clarification is requested.



It is noted that the Draftsperson has advanced certain objections to figures 2, 4A and 4B of the application. It is respectfully urged that upon indication of allowable subject matter in the application, formal drawings will be provided along with a petition for entrance of the objected to photographs. Until such time as allowable subject matter is identified in this case, it is respectfully requested that this ground for objection be held in abeyance.

With this response, an Information Disclosure Statement (IDS) and copies of references cited therein are provided. Because this IDS is being filed after receipt of a first Office Action, the required fee of \$240.00 under 37 C.F.R.1.17(p), as required under 37 C.F.R.1.97(c).

Applicant invites the Examiner to call the undersigned if clarification is needed on any aspect of this response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerard H. Bencen".

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